

Working Better Together: **An Exploration of Shared Services and Other Collaborations**

**Virginia Community Action Partnership
Annual Conference**

Monday, January 11, 2021

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Agenda

- What do shared services look like?
- Why share services?
- Issues to consider before moving forward
- Nuts and bolts of shared services agreements
- Lessons learned from other CAAs

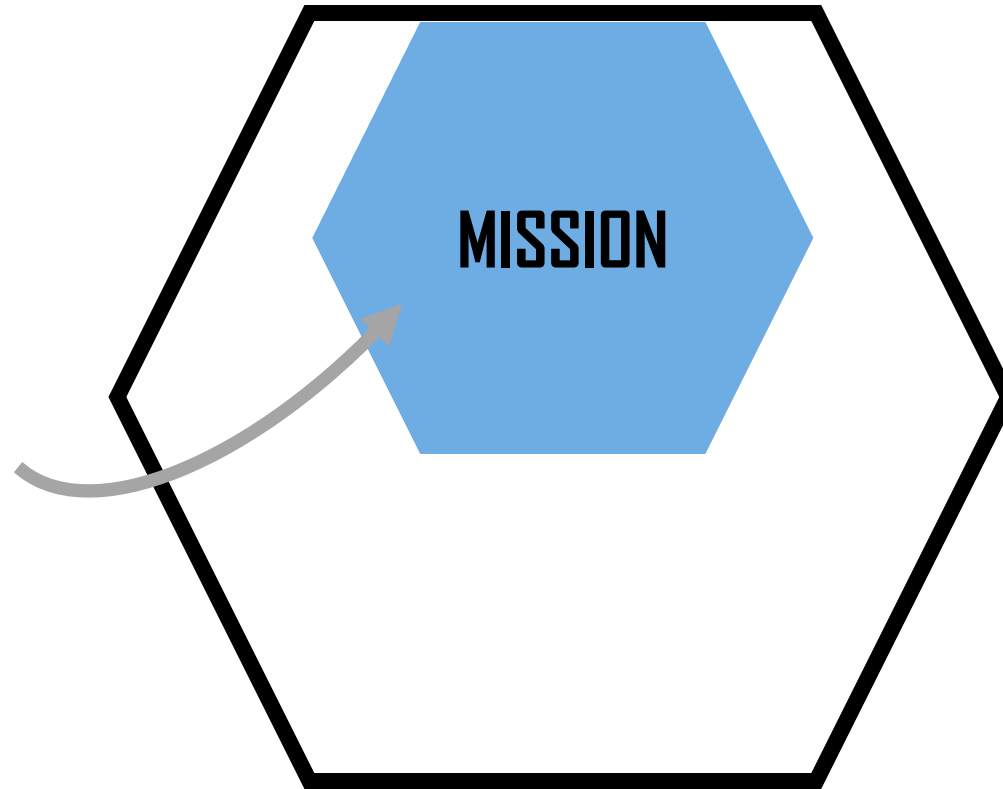
Question #1

1. Has your CAA ever:

- a. Shared administrative (e.g., Executive Director, HR, fiscal, IT) services with another organization?
- b. Shared other types of services (e.g., programs) with another organization?
- c. Discussed sharing services but ultimately decide not to do so?
- d. Discussed (at the board/management level) whether sharing services was a good strategic fit for your CAA?

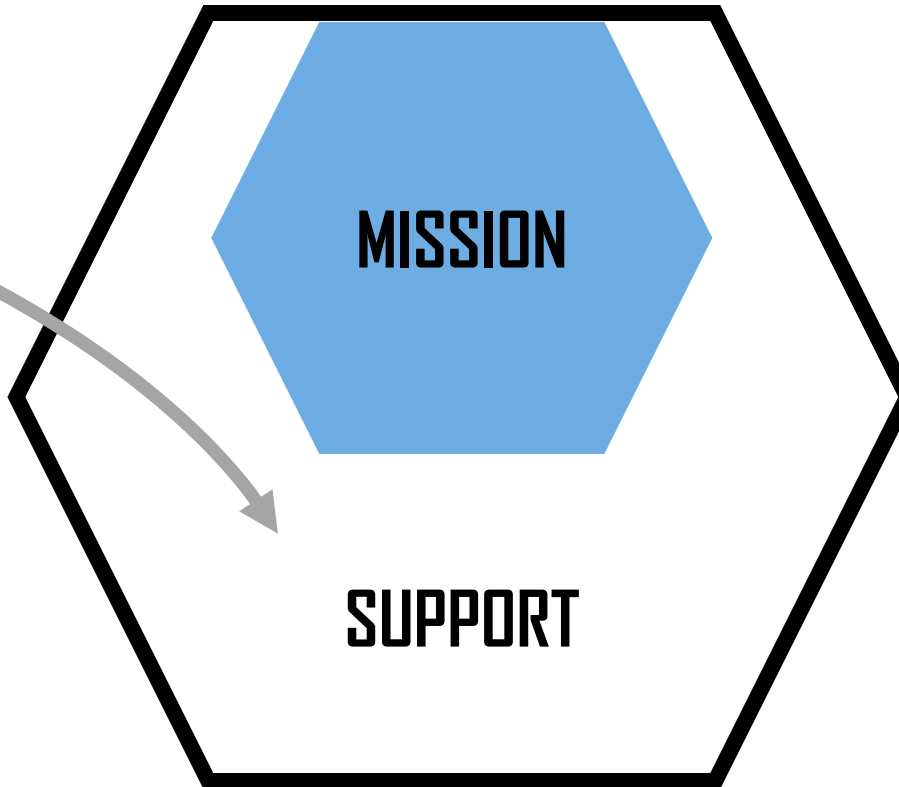
Why Share Services?

Imagine this is a
CAA, and at its
core is its **mission**

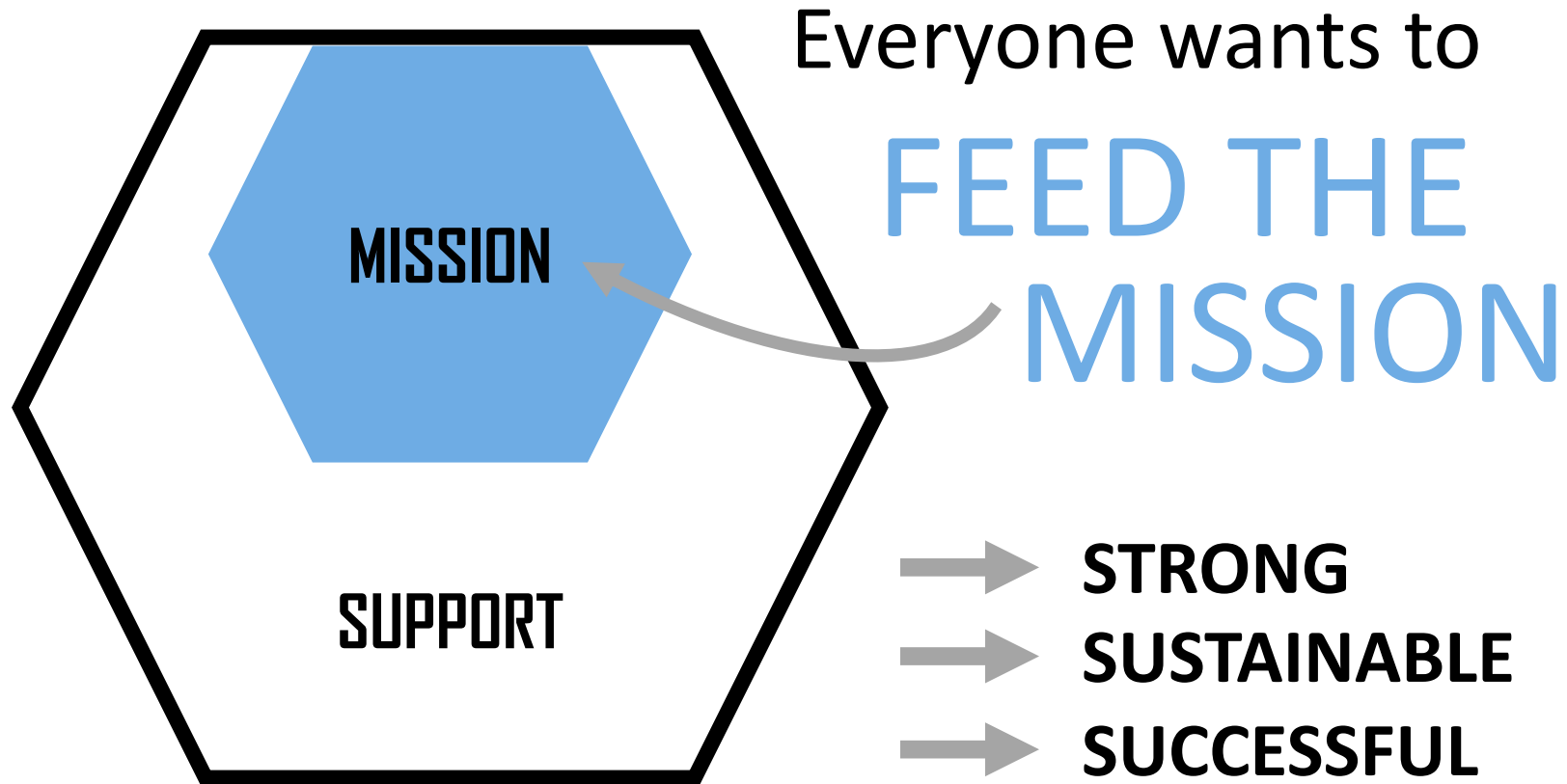


Why Share Services?

In the space are all the things that support the **mission**: collecting fees, hiring and training staff, reporting and compliance, accounting, building maintenance, etc.



Why Share Services?

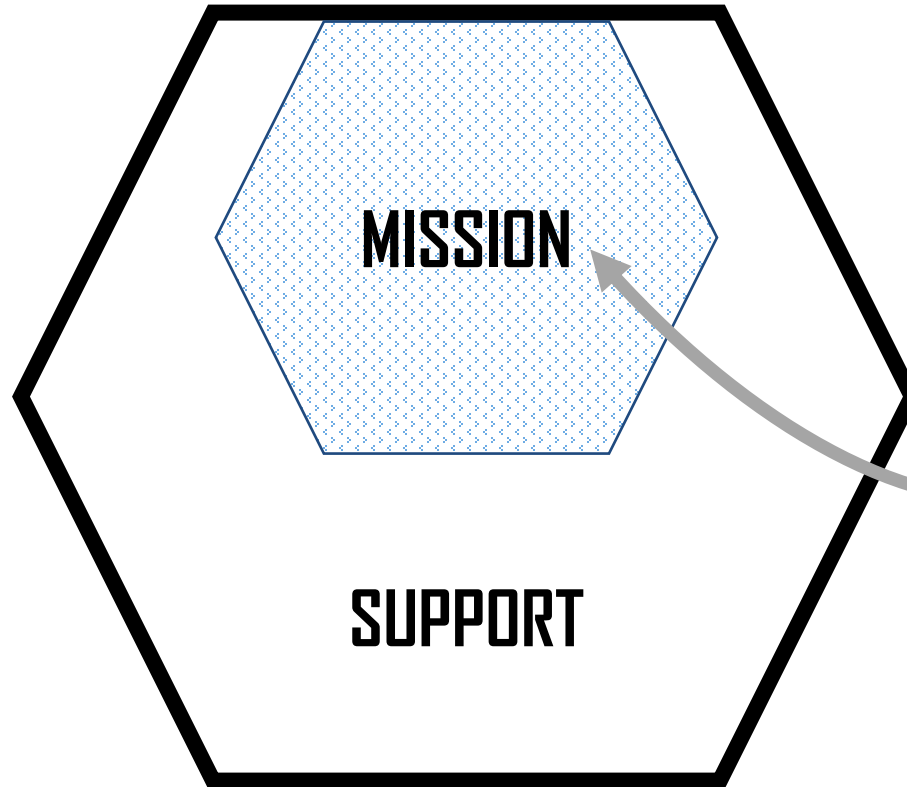


Why Share Services?

But it's hard to excel at both **MISSION** and all the things that **SUPPORT** the mission.



Why Share Services?



What happens is the **MISSION** begins to

STARVE

Why Share Services?

One **SOLUTION** is to **POOL NEEDS**
with other like-minded organizations
to meet these needs **TOGETHER**

Why Share Services?

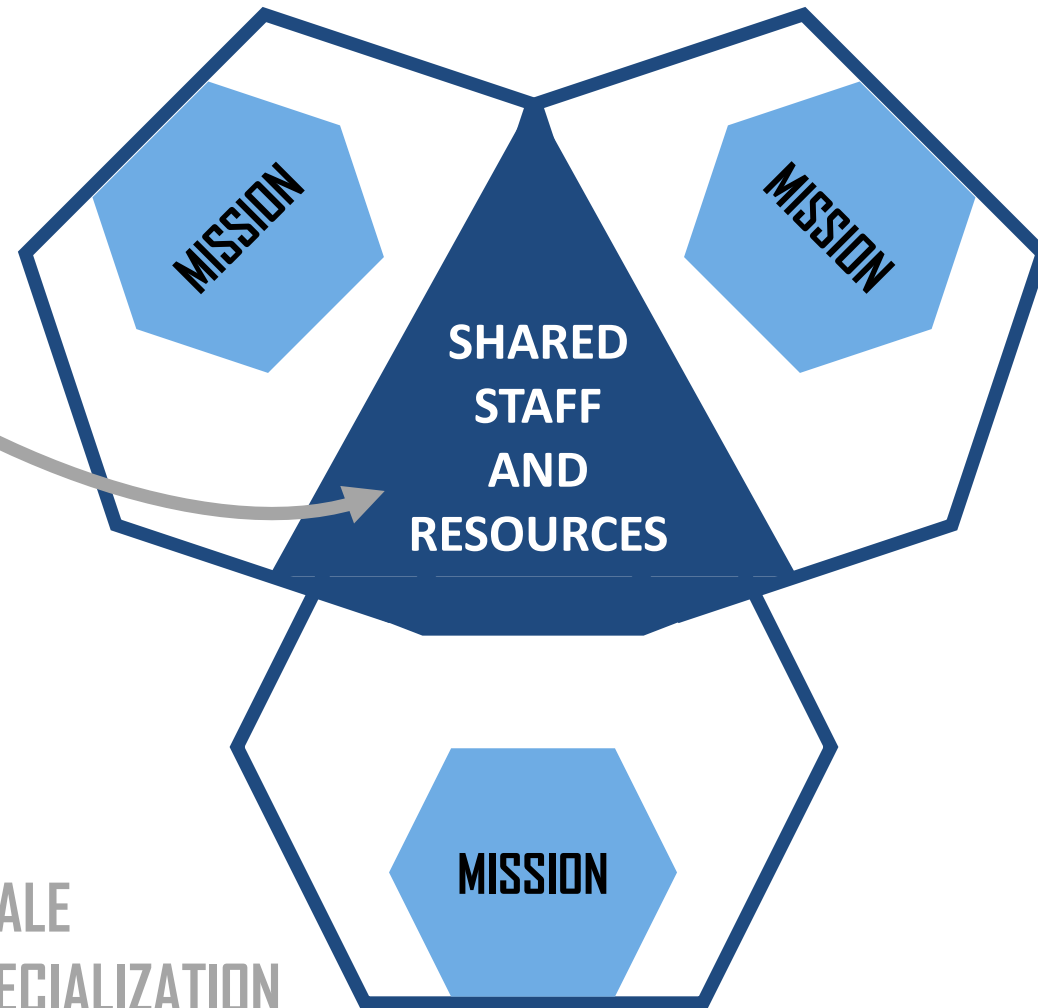
The overlapping space represents shared staff and other resources to meet those needs

When organizations **share staff and tasks**, more time, money, and energy is available to **feed the mission**

What do we **gain**?

CAPACITY: THROUGH SCALE

CAPACITY: THROUGH SPECIALIZATION



Definition of Shared Services

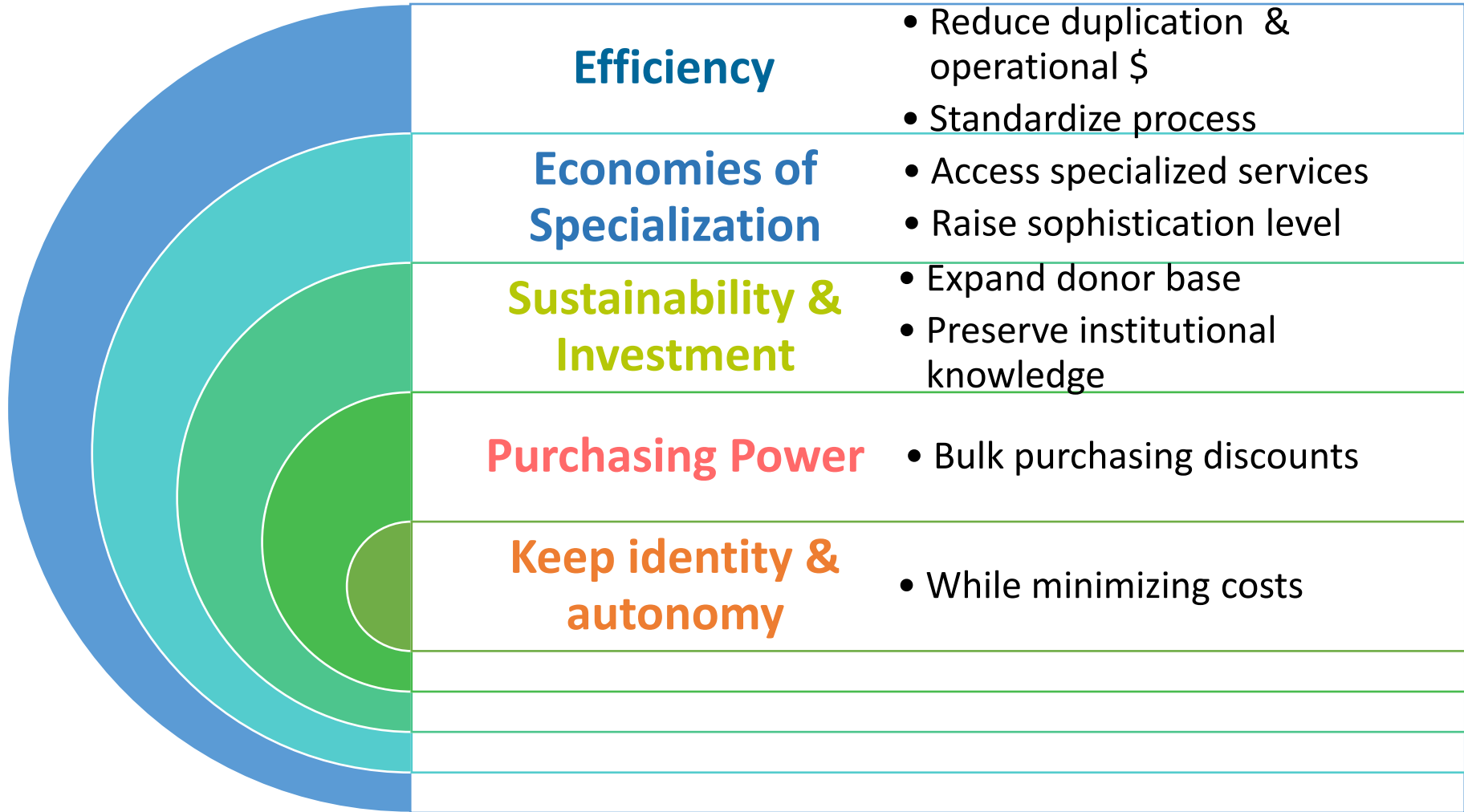
- **Definition**

- Arrangements between multiple organizations to share **administrative** or **programmatic** functions or **physical resources**

- **Core idea**

- **Reduce costs** and **improve** management and services delivery by **sharing administrative and programmatic functions** with other organizations that provide similar types of services

Benefits of Sharing Services



Issues to Consider Before Moving Forward

Issues to Consider

- What services to share?
- Which organization to partner with?
- How to structure the arrangement?
- Funding source rules
- Unrelated Business Income Tax (UBIT)

Services That Can Be Shared

Physical Resources/Co-Locating

- Workspaces, libraries, kitchens, conference rooms, offsite storage and servers
- Buses, transportation systems
- Copiers/printers/fax machines
- IT, hardware, software, servers, cloud applications
- Communications systems, phones, video conferencing

EASIEST TO SHARE

easy to value, divide, monitor • pay rental or usage fee • does not require high level of trust • upfront investment and decisions about features/amenities • in-kind/match

Services That Can Be Shared

Staffing

**Financial &
administrative**

**Data collection
and analysis**

**Human
resources**

**Group
purchasing**

**Fundraising &
development**

**Facilities
management**

**Executive
director**

Services That Can Be Shared

Programs

- Client intake
- Program operation
- Curriculum research, development and delivery
- Community events
- Advocacy campaigns

MORE DIFFICULT TO SHARE

Requires high level of trust and commitment among participating organizations

Organizational Partners

- **What are some ways of identifying potential partners?**
 - Existing alliances and collaborations
 - Board or ED contacts/relationships
 - Similar organizations serving adjacent areas
 - Working with a consultant
 - E.g., state CSBG office or CAA state/regional association

Organizational Partners

- **What should we look for in a partner?**
 - May, but need not necessarily be, another CAA or Head Start grantee
 - Nonprofit vs. for-profit organization
 - Expertise in needed services
 - Excess staff capacity
 - Geographic proximity

Structuring Arrangements

- **Program collaboration agreement**
 - Jointly applying to grants
 - Collaborating on aspects of implementing a project
- **Management/administrative services agreement**
 - Sharing staff or physical resources
 - Jointly operating a program
- **Fiscal sponsor agreement**
 - A nonprofit organization acts as a “fiscal sponsor” for another entity (typically one that does not have its own 501(c)(3) tax-exempt status)

SwiftStart Example

- Program collaboration
- Management/administrative services
- Fiscal sponsor

Examples of CAA Shared Services Arrangements

- **CAA #1** manages the administrative and fiscal functions of **CAA #2** as well as **CAA #2**'s programs (but **CAA #2** continues to employ program staff).
- **CAA #1** engages another nonprofit to provide it with an executive director and chief financial officer.
- **CAA #1** provides a fiscal director to **CAA #2**.
- **CAA #1** provides fiscal and HR services to **CAA #2**.
- **CAA #1** provides an entire weatherization department, including the weatherization director, crews and inspectors, to **CAA #2**.

Funding Source Rules

■ Head Start

- **Need OHS approval** of change in (1) Head Start Director and (2) Executive Director/Chief Financial Officer (if >50% salary paid out of Head Start funds or listed in grant application as key personnel) (*45 C.F.R. § 75.308(c)(ii)*)
- **Need OHS approval** of change in use of real property or facilities subject to a federal interest (*45 C.F.R. § 1303.48(b)*)

Funding Source Rules

■ Cost Allocation

- Need to **properly allocate costs** of services performed under shared services arrangement
- Include an appropriate allocation of **indirect costs**

Funding Source Rules

■ Procurement

- Entity receiving services must follow its procurement policy and comply with the Uniform Guidance's procurement standards (2 C.F.R. §§ 200.318 – 200.326)
- Methods of procurement:
 - **Micro-purchase:** < \$50,000; no need to solicit quotes
 - **Small purchase:** \$50,000-\$250,000; obtain quotes from adequate number of qualified sources
 - **Competitive proposals:** Publicly solicit proposals from an adequate number of qualified sources; have written methods for evaluating proposals

Funding Source Rules

■ Procurement

- Methods of procurement (continued):
 - May only use **sole source procurement** if:
 - Item is only available from a single source;
 - Public exigency or emergency exists;
 - CAA obtained prior written approval from funding source to use sole source procurement; or
 - After solicitation of a number of sources, CAA determined that competition was inadequate
- Maintain written standards of conduct covering conflicts of interest and governing actions of employees engaged in award, selection, or administration of procurement contract

UBIT Issues

- Exempt organizations are subject to a tax on **unrelated business income**
- Identifying UBI:
 - Is it a “trade or business”?
 - Is it regularly carried on?
 - Is it substantially related to the CAA’s exempt purpose?

UBIT Issues

Providing Administrative Services

- **Fees** generated from performing administrative services for other non-profit organizations are likely to be deemed to be UBI
- **Factors the IRS will consider:**
 - Relationship of service provider to the recipient
 - Fee charged for services
 - Nature of services (commercial?)
 - Recipients of the services

Question #2

- 2. What do you see as the biggest obstacle to your CAA sharing services with another organization?**
- a. Finding the right partner with compatible administrative or programmatic needs
 - b. Complexity of allocating shared staff time
 - c. Funding source rules/approval
 - d. Perception that sharing services is a precursor to a merger
 - e. Not enough information about shared services process

Nuts and Bolts of Shared Services Agreements

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Community Action Program Legal Services, Inc.

Legal and Financial Resources
for Community Action

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CAPLAW provides legal and financial resources for over 1,000 CAAs working nationwide to reduce poverty, and revitalize and empower low-income communities to become self-sufficient.

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What's New at CAPLAW?

New Overtime Rule Takes Effect January 1, 2020

The U.S. Department of Labor recently issued a new overtime rule, which increases the salary level required for an employee to be classified as exempt from the federal Fair Labor Standards Act (FLSA)'s minimum wage and overtime rules, from \$455 per week to \$684 per week. The employee must also meet the salary basis test and applicable duties test.

[CAPLAW News Alert on the New Overtime Rule](#)

News for Community Action

Free Upcoming Webinars

[FLSA Overtime Rule 2.0: Tackling Exemption Compliance Now](#)

Presented by: Fisher Phillips

Date: Wednesday, October 9, 2019

Time: 12:00 PM - 1:00 PM EST

Join Fisher Phillips attorneys as they discuss tackling the federal Fair Labor Standards Act white-collar exemption changes. This webinar will discuss a wide range of issues, including the new salary threshold, the new "highly-compensated" employee threshold, where to begin evaluating the impact of these changes, other exemptions

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CAPLAW

Community Action Program Legal



Community Action Program Legal Services, Inc.

SAMPLE SHARED SERVICES AGREEMENT

This sample shared services agreement was developed by Community Action Program Legal Services, Inc. (CAPLAW) and has not been approved by any outside authority, such as the U.S. Department of Health and Human Services (HHS). You should review this sample shared services agreement thoughtfully and modify it as necessary to meet the individual needs of your organization and to comply with any laws, regulations, and grants that apply to your organization. You should also discuss any prospective shared services arrangements with your funding sources. CAPLAW strongly recommends that when working with this sample shared services agreement, you consult with an attorney that is well-versed in the contract laws of your state.

This shared services agreement contains bracketed text and footnotes corresponding to specific provisions, both of which are intended to help you better understand the shared services agreement and how to adapt it to the needs of your organization. You should update this text and delete any brackets when finalizing the shared services agreement.

This publication is part of the Community Services Block Grant (CSBG) Legal Training and Technical Assistance (TTA) Center. It was created by CAPLAW in the performance of the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services Cooperative Agreement – Grant Award Number 90ET0467-02. Any opinion, findings, conclusions, or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Health and Human Services, Administration for Children and Families.

The contents of this publication are intended to convey general information only and do not constitute legal advice. This publication does not constitute or create an attorney-client relationship. If you need legal advice, please contact CAPLAW or another attorney directly.

https://www.caplaw.org/resources/modelpoliciesDocuments/CAPLAW_SampleSharedServicesAgreement.docx

Program Collaboration Agreement

- **Determine which party will act as:**
 - **Lead organization** – administer award and coordinate with funding source
 - **Fiscal agent** – submit invoices, distribute funds
 - **Project manager** – monitor partners' performance, oversee program operations and project evaluation
- **Set standards for project performance**
- **Specify dispute resolution procedures**
- **Ensure parties remain independent contractors**
- **Specify term and process of amending agreement**

Management/ Administrative Services Agreements

- **Key provisions to address:**
 - Term of agreement
 - Scope of services being provided and supervision
 - Fee to be paid (cost vs. cost plus administrative fee)
 - Payment terms
 - Insurance coverage
 - Termination of agreement
 - Process for amending agreement
 - Standard contract terms (required by Appendix II to the Uniform Guidance, 2 C.F.R. Part 200)

Management/Administrative Services Agreements

Sharing Staff

- **Determine which organization will employ the staff member**
- **Estimate how much time the employee will perform work for the partner organization(s)**
 - Consider setting maximum amount of time, but pay only for time actually worked
- **Track and allocate staff time performed for partner organization(s)**
- **Allocate appropriate portion of staff costs**
 - Wages, fringe benefits

Management/Administrative Services Agreements

Sharing Physical Space

- Typically structured as a lease or sublease arrangement
 - **If nonprofit CAA owns the property**, may lease a portion of the facilities to another nonprofit organization without incurring UBIT
 - If building is subject to a federal interest, must get funding source approval
 - **If nonprofit CAA leases the property**, need to check lease re: whether sublease is allowed; must allocate part of the rent the CAA pays to the subleasing organization

Management/Administrative Services Agreements

Sharing Equipment or Software

- **Determine how to allocate costs of use of equipment or systems**
- **Agreement for software services**
 - Who is the contracting party? (e.g., state association)
 - Fees paid for services
 - Who has access to and owns the data? (privacy issues)
 - What rights do the individual CAAs have to modify or customize the services provided?
 - Indemnification rights
 - Term of agreement, renewal, and termination

Fiscal Sponsorship Agreements

- **Definition**

- An arrangement in which a 501(c)(3) public charity sponsors a project that lacks tax-exempt status itself

- **Why have a fiscal sponsor?**

- **Receive tax-deductible donations** before or in lieu of obtaining tax-exempt status
 - New groups unsure of viability
 - Groups intending to operate for only a short time
- Project lacks **administrative experience or infrastructure**
 - Provides credibility to start-up project
- Some awards limited to organizations with **501(c)(3) status**

Fiscal Sponsorship Agreements

- **Requirements for a fiscal sponsor**
 - Must retain **complete discretion and control** over the funds received for the project (cannot just be a pass-through entity)
 - Must ensure that funds are used in a manner that **furtheres sponsor's own tax-exempt purpose**

Fiscal Sponsorship Agreements

- Multiple ways to structure fiscal sponsorship
- Two common models
 - **Direct project**
 - Project belongs to sponsor and is implemented by employees and volunteers
 - Project is not a separate legal entity
 - **Pre-approved grant relationship**
 - Project is a separate legal entity (but not a 501(c)(3))
 - Sponsor agrees to accept donations on behalf of project and to grant those funds to project under the terms of a grant agreement

Fiscal Sponsorship Agreements

■ Issues to address

- Project's activities and programs
- Maintenance and release of funds
- Type and frequency of reporting by project
- Means of inspection and access to project's records
- Any requirements of grantor
- Will project staff be employees of project or of sponsor?
- Amount of supervision and control sponsor will retain
- Ownership of tangible and intangible assets of project
- Payment of fees
- Duration and termination of agreement

Note on Mergers

Definition of Merger

- **“Merger”**: term used to describe a partnership in which two or more corporations become one
- Different ways of structuring these types of partnerships
 - Discuss **goals** of partnership
 - **Form** (choice of partner and structure) will follow **function** (what we hope to achieve)

Why Merge?

- Cuts in government funding and intensified competition for funding
- Be better equipped to meet increased funding source expectation for effectiveness, efficiency and oversight
- Strengthen financial position
- Increase exposure within community
- Expand service programmatic offerings
- Executive/leadership transitions

Lessons Learned from Other CAAs

Lessons Learned

- **Ensure arrangement is properly structured**
 - Written shared services agreement
- **Exercise effective oversight over arrangement**
 - Board of organization receiving services must still exercise its fiduciary duties
 - E.g., ensuring compliance with terms of government grants and contracts, monitoring financial transactions
- **Keep organizations separate and observe corporate formalities**
 - Separate board meetings, bank accounts, tax ID numbers

Lessons Learned

- **Consider impact on staff morale**
 - Shared staff member's familiarity with the organization receiving services
 - Ability to respond to day-to-day operational concerns
 - Perception of takeover or fear of future merger
- **Be aware of UBIT issues**
 - Revenue generated from providing administrative services likely counts as UBI
 - Must report all UBI on Form 990-T if CAA generates gross UBI > \$1,000 in a fiscal year
- **Get buy-in from boards of both organizations**

Additional CAPLAW Resource

Working Better Together: CAPLAW's Guide to Shared Services and Mergers

<http://www.capl原因.org/resources/PublicationDocuments/mergersandsharedservices/Introduction.html>

[INTRODUCTION](#)[MERGERS](#)[SHARED SERVICES](#)[RESOURCES](#)

Resources

CAPLAW Shared Services and Merger Case Studies

New! Merger between Mesa Community Action Network (MesaCAN) and A New Leaf, Inc.

This case study is based on CAPLAW's interview with Kathy Di Nolfi, Executive Director of MesaCAN, and Michael Hughes, CEO of A New Leaf. This case study presents an example of a parent-subsidiary merger between a small, non-profit CAA facing significant financial challenges and a larger, more financially robust non-profit organization providing overlapping social services in the same service area. [Read more](#).

Merger of a Maine CAA and a non-CAA

This case study is based on CAPLAW's interview with Mike Tarpinian, Chief Executive Officer of the Opportunity Alliance in Portland, Maine, about the merger of a Community Action Agency, Peoples' Regional Opportunity Program, Inc., with Youth Alternatives Ingraham to form the Opportunity Alliance. [Read more](#).

Management Agreement between Georgia CAAs

This case study is based on CAPLAW's interview with Nancy Smith, Executive Director of Middle Georgia Community Action Agency, Inc. and Heart of Georgia Community Action Council, Inc., and a review of the management agreement between the two organizations and their annual reports. [Read more](#).

Merger of CAA and non-CAA in Suffolk County, NY



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Increasingly, Community Action Agencies (CAAs) are exploring shared services and mergers as strategies to improve their sustainability and enhance their efficiency and effectiveness. CAPLAW has prepared this guide to help CAAs and other Community Services Block Grant (CSBG) organizations better understand these arrangements. The guide includes questions and answers on shared services and mergers, as well as additional resources – including case studies prepared by CAPLAW on CAAs that have shared services or merged (or both) with another organization, information on books and online publications on these topics, and more. Review the various Q&A in this guide to get an overview of shared services and mergers or click on the particular topic and questions that are of interest to you. Stay tuned for future updates; as CAPLAW gathers more information about these topics, we will add additional Q&A and resources to this guide.



Why Consider Sharing Services or Merging?

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Introduction

- [Why are CAAs talking about shared services and mergers?](#)
- [What do the terms "shared services" and "mergers" mean?](#)
- [Ultimately, what should we hope to achieve by sharing services or merging?](#)
- [What role might a state CSBG association play in facilitating CAA shared services and mergers?](#)
- [What role might a state CSBG office play in facilitating CAA shared services and mergers?](#)

Questions?

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